

USSN 10/672,722
Attorney Docket No. 2003-0048-01

REMARKS

Claims 1-67 are active and pending in the present case. Claims 1, 2, and 11-67 have been allowed. Claims 3-10 stand rejected. In response, Applicants provide the following remarks urging reconsideration and withdrawal of the rejection of claims 3-10.

Claims 3-10 stand rejected under 35 USC §103 as unpatentable over Bragin et al. (US 6,466,599) in view of Sukhman et al. (US 5,982,803). The Examiner contends that Bragin et al. disclose substantially the same subject matter as that recited in claim 3 but admits that Bragin et al. do not disclose an anode and upstream fairing wherein "at least the discharge receiving portion of which is anodized." However, the Examiner asserts that Sukhman et al. teach an anodized electrode and concludes that it would have been obvious to modify the anode of Bragin et al. in order to "optimize the laser operating parameters as disclosed in Sukhman et al." The Examiner asserts that the specific features of the dependent claims 4-10 are disclosed by either Bragin et al. or Sukhman et al.

In order to properly establish a prima facie case of obviousness to support a rejection under 35 USC §103, a cogent explanation must be provided as to why one of ordinary skill would have been realistically motivated to combine the specific teachings of different references in the exact manner as recited in the claims. Applicants urge that no such motivation exists for modifying the anode of Bragin et al. with one specific aspect of the device of Sukhman et al. while ignoring the remaining aspects of that device.

In particular, Sukhman et al. are primarily concerned with designing a compact laser (see column 1, lines 54-57). They recognize that in such a laser the electrode gap dimension is critical to optimal laser operation (column 3, lines 8-9) and thus identify a need to improve the structural support for electrodes (column 3, lines 14-18). Their solution is to use support rings (97) as a deformable support member to achieve optimal electrode spacing (column 7, lines 38-42). What Sukhman et al. desire to achieve is an

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electrode environment having an optimal balance between the amount of exposed material, the spacing between electrodes, and the gas mixture concentration around the electrodes (column 8, lines 37-46). While the electrodes of Sukhman et al. may be constructed of aluminum having an oxide layer, there is no suggestion in Sukhman et al. that this composition is selected or controlled "in order to optimize laser operating parameters." In fact, Sukhman et al. identify electrode spacing as the parameter useful for controlling the tube's inherent impedance (column 8, lines 28-33). Accordingly, there is no realistic motivation why one of ordinary skill would have been realistically motivated to selectively choose the electrode material of Sukhman et al. to modify the anode of Bragin et al. There is no suggestion in either reference regarding the desirability, benefits, or usefulness of using an anodized anode in the system of Bragin et al. Thus, Applicants urge that the combination of Sukhman et al. and Bragin et al. do not provide the factual basis to support a prima facie case of obviousness under 35 USC §103 with respect to claim 3. Reconsideration and withdrawal of the rejection under 35 USC §103 of claim 3, and its dependent claims 4-10, are respectfully requested.

Additionally, claims 7-10 specifically recite a feature related to the thickness of the anodized layer having certain attributes. Applicants urge that neither Bragin et al. or Sukhman et al. disclose or suggest anything related to selecting the thickness of an anodized layer having particular attributes. The oxide layer of Sukhman et al. is a fixed thickness range and modifying or controlling this thickness is never discussed or suggested within Sukhman et al. Applicants urge that Bragin et al. and Sukhman et al., either individually or in combination, do not disclose all the features recited in claims 7-10. Accordingly, reconsideration and withdrawal of the rejection under 35 USC §103 of claims 7-10 are respectfully requested.

In view of the above remarks, Applicants believe that claims 1-67 are in condition for allowance and passage of this case to issue is respectfully requested.

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Applicants authorize the Commissioner to charge our Deposit Account No. 03-4060 in the amount of \$120.00 for the one-month extension of time fee. Applicants do not believe any other fees are due, however if any other fees are due, the Commissioner is authorized to charge the fees to Deposit Account No. 03-4060.

Respectfully submitted,

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